



APPLICATION FOR SPECIAL EXCEPTION
ARTICLE IV-A
IN-LAW/ACCESSORY APARTMENTS

Zoning Board of Adjustment
Town of Fremont
P.O. Box 120
Fremont, New Hampshire 03044

Do not write in this space.

Case # _____

Date filed: _____

Hearing Date: _____

Total Fees Received: _____

Signed : _____

ZBA

Name of applicant: _____

Address: _____

Phone: _____

Owner: _____

(if same as applicant, write "SAME AS")

Location of property Map # _____ Lot # _____

(street address)

NOTE: This application is not acceptable unless all required statements in the appropriate section have been completed. **Additional information may be supplied on a separate sheet if the space provided is inadequate.**

APPLICATION FOR A SPECIAL EXCEPTION

Description of proposed use showing justification for a Special Exception as specified in the zoning ordinance Article IV Section A

Explain how the proposal meets the special exception criteria as specified in Article IV Section A of the Fremont Zoning Ordinance: (List all criteria from ordinance)

- ☐ The property conforms to the dimensional requirements of the single family minimum lot size standard as established by Fremont Zoning Ordinance in 1971 (Lot size of one (1) acre minimum is required) _____
- ☐ The Dwelling to which the in-law/accessory apartment is being created is owner occupied and of greater than twelve hundred (1200) square feet of total existing living space.
- ☐ The single family dwelling has been constructed and occupied for a period of a minimum of one year. _____
- ☐ The living area of the in-law/accessory apartment is not less than four hundred (400) square feet and not more than eight hundred (800) square feet. (Size shall be determined by the total square footage of the in-law/accessory apartment. The initial family unit may not be lessened by such dimensions so as to create non-compliance with Article V Section 2.) _____
- ☐ The in-law/accessory apartment has no more than two (2) bedrooms. _____
- ☐ Septic facilities are adequate to service the in-law/accessory apartment.
(The owner shall provide evidence to the Building Official that septic facilities are adequate to service the in-law/accessory apartment. Such evidence shall be in the form of certification by State of N.H. licensed septic system designer. The Building Official shall indicate his/her approval in writing to the Zoning Board of Adjustment as to proper certification having been received.) _____
- ☐ Any new entrances shall be located on the side or rear of the building and shall be at ground level. _____
- ☐ The in-law/accessory apartment shall have accessible entrance and shall conform to dwelling unit Type-B construction, as specified in the International Residential Code (IRC). _____
- ☐ The primary residence and the in-law/accessory apartment will share common water, septic, and electric facilities. _____

☐ There will be one in-law apartment.

(**In no case** shall more than one in-law/accessory apartment be permitted within the structure. Dormitory-type facilities and living are expressly prohibited whether seasonal or otherwise.)

☐ The In-law apartment will be located in the primary residence.

(Only the primary residential structure may contain the in-law/accessory apartment. In-law/accessory apartment **shall not** be constructed or established within any accessory use structure (such as a garage).

☐ Off-street parking is available for a minimum of four automobiles for the entire structure. There is no separate driveway or separate garage to accommodate its occupant(s).

☐ The in-law/accessory apartments shall be provided with an interconnected smoke alarm system. All smoke alarms shall be listed and installed in accordance with the provisions of the IRC and the household fire warning provisions of NFPA 72. _____

☐ The provisions of the International Residential Code (IRC) shall apply to all construction elements of the in-law/accessory apartment. There shall be no occupancy of the in-law/accessory apartment until the Building Official has issued an occupancy permit. _____

☐ The property seeking the in-law/accessory apartment is not within the Flood Plain as identified by the FIRM map relating to Fremont, N.H.

Signed: _____ Date _____
(Actual property owner)

SPECIAL EXCEPTION:

Certain sections of the Zoning Ordinance provide that a particular use of property in a particular zone will be permitted by Special Exception if specified conditions are met. The necessary conditions for each Special Exception will be granted if you can show that the conditions stated in the ordinance are met.

If you are applying for a Special Exception you will probably also need a determination from the Planning Board (relative to subdivision or site plan review). Even in those cases where no Planning Board approval is needed, presenting a site plan to the Planning Board will assist in relating the proposal to the overall zoning. This should be done before you apply for a Special Exception.

**SPECIAL EXCEPTION
APPLICATION and PROCEDURE**

PROCEDURE – To apply to the Zoning Board of Adjustment for relief, you must follow these steps:

- a. Obtain a letter of denial from the Board of Selectmen or Building Inspector.
- b. Compile a typed list of the names and addresses of all current abutters. This is to be obtained from the Fremont Selectmen's Office. An abutter is anyone whose property physically abuts the subject property or is directly across a street or river. Please include the subject property, applicant, and anyone whose seal or stamp appears on the plan.
- c. Applications can be left at the Town Hall at 295 Main Street in Fremont; or Mailed to the Town at the address above. Submit a check made payable to the Town of Fremont with your application for the fees due.

CHECKLIST FOR APPLICATION

This Application Includes:

_____ Letter of Denial
_____ 6 sets of plans
_____ cover letter of intent
_____ current abutters list
_____ proper check amount
_____ letter of approval to allow representation

FEE SCHEDULE

SPECIAL EXCEPTION

For the first request, and \$50.00 for each additional request if a separate Zoning Article

\$200.00 = \$ _____

ADVERTISING

(current rate of expense)

\$115.00 = \$ _____

ABUTTER NOTIFICATION (per abutter)

(See (B) above for definitions of an abutter. This covers two certified mailings.

\$ 12.49 = \$ _____

TOTAL FEES SUBMITTED \$ _____

ARTICLE IV-A IN-LAW/ACCESSORY APARTMENTS

By Special Exception “in-law/accessory apartments” are allowed within, or as an addition to, existing residential single family structures. Mobile home units and manufactured housing units less than sixteen (1600) square feet, residential duplexes, townhouses or R-1, R-2, and/or R-4 residential apartments/groups, all are excluded from this section. In addition “In-law/accessory apartments” are not allowed within industrial, commercial and/or business type uses or buildings.

An “In-law/accessory apartment” special exception shall be granted by the Zoning Board of Adjustment, only upon finding by this Board that it meets the provisions and conditions of this section.

- A. The applicant, seeking an in-law/accessory apartment shall make application to the Zoning Board of Adjustment.
- B. The property must conform to the dimensional requirements of the single family minimum lot size standard as established by Fremont Zoning Ordinance in 1971 (Lot size of one (1) acres minimum is required), and the single family dwelling shall have been constructed and occupied for a period of a minimum of one (1) year.
- C. The dwelling to which the in-law/accessory apartment is being created must be owner occupied and be of greater than twelve hundred (1200) square feet of total existing living space.
- D. The living area of the in-law/accessory apartment shall be a minimum of four hundred (400) square feet and a maximum of eight hundred (800) square feet. Size shall be determined by the total square footage of the in-law/accessory apartment. The initial family unit may not be lessened by such dimensions so as to create non-compliance with Article V Section 2.
- E. No more than two (2) bedrooms are permitted in the in-law/accessory apartment.
- F. The owner shall provide evidence to the Building Official that septic facilities are adequate to service the in-law/accessory apartment. Such evidence shall be in the form of certification by State of N.H. licensed septic system designer. The Building Official shall indicate his/her approval in writing to the Zoning Board of Adjustment as to proper certification having been received.
- G. The in-law/accessory apartment shall be designed such that the appearance of the building remains that of the single family dwelling. Any new entrances shall be located on the side or rear of the building and shall be at ground level.
- H. All in-law/accessory apartments shall have accessible entrances and shall conform to dwelling unit Type-B construction, as specified in the International Residential Code (IRC).
- I. The primary residence and the in-law/accessory apartment must share common water, septic, and electric facilities.
- J. In no case shall more than one (1) in-law/accessory apartment be permitted within the structure. Dormitory-type facilities and living are expressly prohibited whether seasonal or otherwise.
- K. In-law/accessory apartment shall not be constructed or established within any accessory use structure (such as a garage). Only the primary residential structure may contain the in-law/accessory apartment.

- L. Off-street parking must be available for a minimum of four (4) automobiles for the entire structure. In no case shall an in-law apartment be permitted to have a separate driveway or separate garage to accommodate its occupant(s).
- M. All in-law/accessory apartments shall be provided with an interconnected smoke alarm system. All smoke alarms shall be listed and installed in accordance with the provisions of the IRC and the household fire warning provisions of NFPA 72.
- N. The provisions of the International Residential Code (IRC) shall apply to all construction elements of the in-law/accessory apartment. There shall be no occupancy of the in-law/accessory apartment until the Building Official has issued an occupancy permit.
- O. No in-law/accessory apartments shall be allowed within the Flood Plain as identified by the FIRM map relating to Fremont, N.H.

Upon receiving approval from the Zoning Board of Appeals and prior to receiving a building permit, the applicant shall demonstrate to the authorized official that the applicant has recorded the special exception decision with Rockingham Registry, indexed under the name of the property owner. Any special exception granted under this Section shall contain a provision which states as follows: "Upon the cessation of occupancy by an immediate family member, the owner hereby acknowledges and purchasers are put on notice, that the in-law/apartment is to be used only by immediate family members and no others, and that no variances from this provision shall be obtained permitting any other use".

Variances to this special exception may not be granted.

The following definitions shall pertain to this section:

In-law/accessory apartment – An apartment within a single family residence. An in-law apartment is defined as "a separate living space within a single family dwelling unit consisting of separate sleeping, cooking and bathroom facilities and which is intended to be occupied by an in-law or in-laws or a member of a family unit occupying the main part of the dwelling." and meeting the following criteria:

In-law apartments may be occupied only by members of the family unit occupying the main part of the dwelling or by in-laws of a member of said family unit. The applicant must satisfactorily demonstrate that said apartment will be utilized only in this fashion. The occupancy or rental of an in-law apartment by persons other than in-laws, as defined in this ordinance, is expressly prohibited.

R-1/R-2/R-4 – Residential occupancy groups as defined by the International Residential Code.

DWELLING UNIT, TYPE B. - A dwelling unit designed and constructed for accessibility in accordance with ICC/ANSI A117.1, intended to be consistent with the technical requirements of fair housing required by federal law.